REMARKS

The Official Action reflected an examination of Claims 1-29 with Claims 30-45 having previously been withdrawn from consideration. Claims 30-45 have now been canceled without prejudice to presentation in any subsequently filed divisional application. The Official Action objected to page 8, line 5 of the specification for misspelling "belt". The specification has now been amended to correctly spell "belt", thereby overcoming the objection to the specification. The Official Action also rjected Claims 12 and 13 under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to provide proper antecedent basis for "the wall". Claims 12 and 13 have been amended to recite "a wall", thereby overcoming the rejection under 35 U.S.C. § 112, second paragraph.

Additionally, the Official Action rejected Claims 2, 10, 11, 14, 17, 25, 26 and 29 under 35 U.S.C. § 112, first paragraph, as failing to be properly enabled. The Official Action also rejected Claims 1, 3, 5-9, 12, 15, 16, 18, 20-24 and 27 under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 5,830,113 to Bruce F. Coody, et al. with the remainder of the claims being rejected under 35 U.S.C. § 103(a) as being obvious over the Coody '113, taken either individually, as with Claims 4 and 19, or in combination with U.S. Patent No. 4,679,787 to Joseph D. Guilbault (Claims 2, 14, 17 and 29), U.S. Patent No. 6,458,060 to Scott R. Watterson, et al. (Claims 10, 11, 25 and 26) or U.S. Patent No. 4,066,257 to Bynum W. Moller (Claims 13 and 28). Each of these rejections is separately addressed such that reconsideration of the present application and allowance of the amended set of claims is respectfully solicited.

As to the rejection under 35 U.S.C. § 112, first paragraph, the Official Action contends that the securing device of Claims 2, 14, 17 and 29, the means for accepting payment of Claims 10 and 25 and the means for limiting the time of use of Claims 11 and 26 are not sufficiently enabled since these recitations lack support in the specification. As described below, however, the specification does describe these elements in such a manner as to enable one of skill in the art.

In this regard, page 8, lines 9-12 of the specification describe that "[t]he treadmill track 26 of the seating and treadmill exercise device 14 may also be firmly attached to the floor 24 of the cabin by a securing device, such as a latch, clamp, hook, bolt or the like." Accordingly, the

specification does describe the securing means that was originally recited in dependent Claims 14 and 29 and that has now been incorporated into amended independent Claim 1 (resulting in the cancellation of dependent Claim 14). Similarly, page 6, lines 26-28 of the specification describe the affixation of the treadmill track to the floor and/or wall as recited by Claims 2 and 17 by stating that "the frame is generally attached to the wall or other fixed structure and the treadmill track is pivotally connected thereto so as to pivot about a pivot point **23**."

The specification, on page 7, line 21-page 8, line 3, also describes the means for accepting payment as recited by Claims 10 and 25 and the means for limiting time as recited by Claims 11 and 26 as follows:

> If treadmill use is to be controlled by payment or time (depending on airline preferences), the seating and treadmill exercise device and, most commonly, the control panel, may include means for securing payment for use of the treadmill, such as a slot for accepting bills and/or coins utilized to pay for usage of the treadmill or a card reader for accepting and reading a credit card, frequent flier card or the like that is utilized by the passenger to pay for use of the treadmill, and/or a timer or other type of alarm for limiting the time during which a passenger can utilize the treadmill...The seating and treadmill exercise device **14** also includes a controller that operates in conjunction with the control panel to compute the various parameters and correspondingly drive the display(s). In addition, the controller is preferably adapted to provide control signals to the motor based upon input received via the control panel. In embodiments in which treadmill usage is controlled by payment and/or time, the controller also insures that payment has been received and/or enforces the time limits.

As set forth above, the specification does provide sufficient support for the recitations of Claims 2, 14, 17 and 29 and Claims 10, 11, 25 and 26 to enable a person skilled in the art. Applicant therefore submits that the rejection of these claims under 35 U.S.C. § 112, ¶ 1, is overcome.

As now amended, the combined seating and treadmill exerciser device of independent Claim 1 includes a treadmill track movable between stowed and deployed positions, a folding seat connected to the treadmill track and moveable relative to the treadmill track to permit a person to sit on the seat while the treadmill track is stowed, and a securing device for attaching

the treadmill track to the floor when the treadmill track is in the deployed position. Thus, a user can use the treadmill track without concern that the treadmill track will disadvantageously bounce or otherwise move.

The primary reference, the Coody '113 patent, does not teach or suggest any device for securing the treadmill track to the floor while in the deployed position, as recited by amended independent Claim 1. Instead, the treadmill of the Coody '113 patent includes gas springs to govern movement of the treadmill from the stowed position to the deployed position and to assist a user in lifting the treadmill from the deployed position so as to return to the stowed position. Thus, not only does the Coody '113 patent fail to teach or suggest any device for securing the treadmill track to the floor while in the deployed position, but the treadmill of the Coody '113 patent includes gas springs for lifting the treadmill from the deployed position.

The Office Action therefore cites the Guilbault '787 patent in combination with the Coody '113 patent for its disclosure of a securing device as originally set forth by dependant Claims 14 and 29 and now set forth by amended independent Claim 1. Applicant submits, however, that the Coody '113 patent and the Guilbault '787 patent cannot properly be combined. In this regard, references can only be combined if there exists a motivation or suggestion to combine the references, either set forth by the references themselves or otherwise. Moreover, a primary reference cannot properly be supplemented by the disclosure of a secondary reference if the disclosure of the secondary reference conflicts or otherwise runs counter to a purpose otherwise achieved by the primary reference.

In this regard, the Guilbault '787 patent describes a combined exercise station and sleeping bed. The bed can alternately be placed in a substantially horizontal position to permit a user to lie thereupon, or in a substantially vertical position so as to be out of the way while the user is exercising. The Guilbault '787 patent also includes a treadmill or other exercise equipment affixed to the floor so as to be beneath the bed while the bed is in a substantially horizontal position but exposed and accessible for use once the bed is rotated to the substantially vertical position.

The Official Action indicates that it would be desirable to combine the Coody '113 patent and the Guilbault '787 patent since the Guilbault '787 patent "teaches means for attaching a

foldable treadmill to a floor" and "it would have been obvious to one skilled in the art to employ temporary floor attaching means in the Coody treadmill for temporarily fixing in place the user during bench type exercises which would create translation forces on the frame." However, this line of reasoning suffers from several inaccuracies.

First, the Guilbault '787 patent does not teach a foldable treadmill. Instead, the treadmill is affixed to the floor and remains in position on the floor as the bed is alternatively raised and lowered until that time at which the treadmill is completely removed. Thus, the treadmill of the Guilbault '787 patent is not foldable in any manner. Second, the Guilbault '787 patent does not teach or suggest temporary floor attaching means as suggested by the Official Action. Instead, the treadmill of the Guilbault '787 patent is affixed to the floor and is only released when the treadmill is removed altogether. Third, the Official Action contemplates temporarily fixing the treadmill of the Coody '113 patent during bench type exercises due to translation forces on the frame. As described by the Coody '113 patent, however, the bench is only utilized while the treadmill is stowed. In contrast, amended independent Claim 1 now recites that the treadmill track is attached to the floor by the securing device when the treadmill track is in the deployed position – not in the stowed position. Thus, the rationale submitted by the Official Action in conjunction with the combination of the Guilbault '787 patent with the Coody '113 patent is inappropriate in conjunction with amended independent Claim 1.

Moreover, Applicant submits that the requisite motivation or suggestion to combine the Coody '113 patent and the Guilbault '787 patent. In this regard, the treadmill of the Coody '113 patent is designed to assist a user in moving the treadmill between stowed and deployed positions. As such, the treadmill of the Coody '113 patent does not include any type of securing device for affixing the treadmill to the floor – especially any type of permanent affixation as described by the Guilbault '787 patent. Thus, one skilled in the art and familiar with the treadmill of the Coody '113 patent would not be motivated to incorporate the concepts described by the Guilbault '787 patent, namely, the permanent affixation of a treadmill to the floor, since one of the basic tenets of the Coody '113 patent is the relative ease with which the treadmill may be repositioned between deployed and stowed positions.

Accordingly, Applicant submits that the combination of the Coody '113 patent and the Guilbault '787 patent is improper. Moreover, none of the other secondary references teach or suggest the combined seating and treadmill exercise device of amended independent Claim 1, even when taken in combination with the Coody '113 patent.

The other independent claim, Claim 15, has also been amended and now recites a combined seating and treadmill exercise device for an aircraft having a treadmill track placed in a cross-aisle of the aircraft and capable of being moved between stowed and deployed positions, a folding seat connected to the treadmill track to permit a person to sit on the seat while the treadmill track is in the stowed position, and safety restraints for securing an occupant seated on the seat. Claim 15 further defines the safety restraints to be at least one of a seat belt, a shoulder belt and a harness restraint. Since the combined seating and treadmill exercise device of amended independent Claim 15 is described to be on board an aircraft, the inclusion of safety restraints and, in particular, a seat belt, shoulder belt or harness restraint is particularly advantageous due to the effect of turbulence upon passengers and the regulations that govern air flight. As a result of the amendment of Claim 15, dependent Claim 21 has been cancelled.

The Official Action contends that posts 22 of the Coody '113 patent could be considered safety restraints. Moreover, the Official Action alleges that safety restraints would be disclosed by the typical use of restraining belts in conjunction with exercise benches.

As now amended to define the safety restraints to be a seat belt, a shoulder belt and/or a harness restraint, neither the Coody '1134 patent (including the posts 22 of the Coody '113 patent) nor any of the secondary references, taken either individually or in combination, teach or suggest the combined seating and treadmill exercise device including safety restraints as recited by independent Claim 15. Moreover, while Applicant's undersigned representative is unfamiliar with the restraining belts alleged to be typically used by exercise benches, it is submitted that this type of restraining belt could not fairly be construed as a seat belt, shoulder belt or harness restraint as now recited by amended independent Claim 15. If it is intended to maintain the rejection on the basis of restraining belts utilized by exercise benches, Applicant requests citation to a reference that is exemplary of such restraining belts.

Accordingly, Applicant submits that the Coody '113 patent, taken either individually or in combination with one or more of the secondary references, does not teach or suggest the combined seating and treadmill exercise device including the safety restraints of amended independent Claim 15. For the reasons set forth above, Applicant submits that the rejections of amended independent Claims 1 and 15, as well as the claims that depend therefrom, under 35 U.S.C. §§ 102(b) and 103(a) are therefore overcome. It is noted, however, that in addition to being patentably distinct from the cited references for the same reasons as a respective independent claim, several of the dependent claims include additional recitations that also are not taught or suggested by the cited references.

In this regard, dependent Claims 10 and 25 recite means for accepting payment for use of the treadmill track, while dependent Claims 11 and 26 recite means for limiting the time during which someone may use the treadmill track. The Official Action cites the Watterson '060 patent for its supposed disclosure of the features. However, the Watterson '060 patent does not teach or suggest any means for accepting payment for use of the treadmill as recited by Claims 10 and 25. Instead, the Watterson '060 patent describes payment for network access or for otherwise accessing a communication module (col. 35, line 62 – col. 36, line 20), as well as payment for exercise equipment, CDs, videos, etc. (col. 37, line 66 – col. 38, line 67), but neither the Watterson '060 patent nor any of the other cited references teaches or suggests means for accepting payment merely for use of the treadmill track, as recited by dependent Claims 10 and 25. Similarly, neither the Watterson '060 patent nor any of the other cited references teaches or suggests means for limiting the time during which a user may exercise upon the treadmill, as recited by dependent Claims 11 and 26. Applicant therefore submits that dependent Claims 10, 11, 25 and 26 are also patentably distinct from the cited references, taken either individually or in combination, for these additional reasons.

CONCLUSION

In view of the amended specification and claims and the foregoing remarks, Applicant submits that all rejections have been overcome and that the amended set of claims is in condition for immediate allowance. Applicant therefore requests issuance of a Notice of Allowance at the earliest juncture. If any issues arise during the consideration of this Amendment, the Examiner is requested to telephone Applicant's undersigned attorney to expeditiously resolve such issues.

It is not believed that extensions of time or fees for net addition of claims are required, beyond those that may otherwise be provided for in documents accompanying this paper. However, in the event that additional extensions of time are necessary to allow consideration of this paper, such extensions are hereby petitioned under 37 CFR § 1.136(a), and any fee required therefore (including fees for net addition of claims) is hereby authorized to be charged to Deposit Account No. 16-0605.

Respectfully submitted,

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